HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. 1276 of 2003 (SS)

Naresh Kumar vs. State and others

Approved for reporting.

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~~Not approved for reporting~~

Date of decision. 22.10.2003

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1276 of 2003 (SS)

Sri Naresh Kumar s/o Sri Ram Kishan
Mandi Prichar Roorkee,
Mandi Samiti Roorkee,
District Hardwar ……..…Petitioner

Versus

1. State of Uttaranchal
2. Krishi Utpadan Samilti Parishad
   Naveen Mandi Sthal Bareilly Road,
   Haldwani
3. Deputy Director of Krishi Utpadan Mandi
   Parishad, Naveen Mandi Sthal, Haldwani…….…Respondents

Sri S.C. Bhatt, Advocate for the petitioner.
Standing counsel for respondent no.1 and
Sri J.C. Belwal, Advocate for respondents 2 & 3.

Dated: 22nd October 2003

Hon'ble Rajesh Tandon, J.

I have heard the learned counsel for the parties at length.

By the present writ petition the petitioner has prayed for a writ order of direction in the nature of certiorari quashing the advertisement published in Amar Ujala dated 11.5.2003 Annexure-5 to the writ petition.

Brief facts giving rise to the present writ petition are that the Petitioner is a class IV employee know as Mandi Parichar. The post

has been created recently by the Secretary, Mandi Utpadan Samit, Haldwani, Nainital on 17.3.12001. Before the post of Mandi Parichar the petitioner was posted as Waterman. The petitioner belongs to other backward class (OBC). The grievance of the petitionwe is that he has moved representation on 24.1.2003 as well on 8.4.2003 stating therein that the petitioner is entitled for promotion on the post of Mandi Sahayak.

Counsel for the respondents no.2 and 3 Sri J.C. Belwal has stated that so far as the post of Mandi Parichar is concerned it has been referred to the Government for providing feeding cadre for the promotional post and the same is under consideration.

The learned counsel for the petitioner has pointed out that U.P. Mandi Parishad Niyamawali 1984 provides 85% should be filled by direct recruitment and 15% by way of promotion.

The petitioner in paragraph 7 of the writ petition has also stated regarding mala fide. Paragraph 7 of the writ petition reads as under:

"That the authorities have been given promotion to ten class IV employees from the post of Watch Man to Clerk, from Khatima to Kashipur, Haris Singh from the post of watchman to clerk. Not only this a Mandi Parichar from one of them has been changed in the post of Mandi Sahyak which is higher rank to Mandi Parichar, the name of the employee is Dinesh Dobhal, whereas the petitioners are also

Class IV employee and those employees who have been promoted by the authorities are also class IV employees and some of them are junior to the petitioners and some of them are seniors. Photocopy of the approved list is being filed herewith and marked as Annexure 4 to this writ petition."

According to him other class IV employees have been promoted by the authorities and some of them are junior to the petitioner. He has also annexed photocopy of the approved list. The petitioner has also filed the copy of the order dated 16.9.2003 passed by Hon'ble Mr. Justice P.C. Verma in Writ Petition No. 1046 of 2003 (SS). His Lordship in the aforesaid writ petition has directed the respondents to decide the representation. The order is quoted below:

Admit. Notices have been accepte by Sri J.C. Belwal, learned counsel of Krishi Utpadan Mandi Parishad, who prays for and is allowed 8 days time to seek instructions and to file counter affidavit.

List after eight days.

In the meantime, the representation of the petitioner shall be decided."

In view of the aforesaid facts and circumstances the respondents are directed to consider and dispose of the representation of the petitioner by a reasoned order within a period of 6 weeks from the date of filing of certified copy of this order.

The writ petition is disposed of with the aforesaid observations.

22.10.2003 **(Rajesh Tandon, J.)**
Dhyani